December 21, 2011 BENTON COUNTY PLANNING BOARD MINUTES

- 1. Call to Order: The meeting was called to order by Chairman Lane Gurel at 6:10 p.m.
- 2. Roll Call: Lane Gurel, Ken Knight, Jim Cole, Mark Curtis, Cindy Jones and Starr Glenn were Present. Staff was represented by Elizabeth Bowen, Christopher Ryan, Richard McKeehan, Douglas Wyatt and Donna Fallin
- **3. Planning Board Member Reports:** Chairman Gurel announced the format for the meeting would include both Public Hearing and Technical Advisory Committee meetings.

4. Old Business: None

5. New Business:

A. Donald Hernandez, 8001 Byers Road, Centerton, AR. Request for a Variance to Setback, Project 11-149; JP District 11 (DTW) Histories and Description

<u>Staff Review:</u> Staff's review of the requested variances is based upon Section 54-59 entitled "Variance permitted". Section 54-59 states; the board of zoning adjustment may vary the requirements of this article if strict enforcement of this article would cause undue hardship due to circumstances unique to the individual property under consideration and grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of this article.

In deciding whether to grant a variance for the reconstruction of a destroyed building, which building existed in the setback area on the effective date of the ordinance from which this section derives, the board of zoning adjustment may consider the historical significance of the destroyed building and the economic hardship on the owner of the destroyed building. (Ord. No. 86-27, art. VI, 11-13-86; amended by Ordinance O-2004-09)

The property is rectangular in shape and measures approximately 470' x 283' for an area of 3.05 acres. The site slopes from the southwest corner of the property to the northeast corner. Staff does not believe that the property itself is unique or provides an exceptional situation to persons using such land.

If the applicants, of this variance request, had come to the Benton County Planning Office and applied for a building permit before they constructed the utility building, staff would have ensured that the building would be fifty (50) feet from the road centerline. Any resulting hardship that the applicant now suffers, from not first seeking a building permit, is "self-imposed".

The Planning Board has three different options that it could choose from to remedy this situation; 1. Fail to grant a variance and take no further action. The current situation would become a new non-conforming use. 2. Fail to grant a variance and take action to bring the violation into conformance with a fifty (50) foot setback. The new building would have to be moved three (3) feet to the south. 3. Grant a variance to the applicant based upon the fact that the violation committed was "minimal" or "De minimis".

Planning Staff took front and side perspective pictures of the new building (Attachment B). Within the immediate area, there are few other buildings. A difference of three (3) feet does appear to be "De minimis".

The intent of Section 54-58, to provide adequate building setbacks, would be upheld if this board granted the applicants a variance. Now that the building is constructed, compelling the applicant to move it, so that it completely complies with a fifty (50) foot setback, would create more of an effort for the applicant than the infraction suffered by the general public. Recommendation

Based upon the above analysis, staff recommends that this variance request be granted. Such action should not be deemed to set precedent. Members of the public are expected to apply with their local planning office before developing their property or building structures thereon. Reviewed by: Douglas T. Wyatt, AICP -- Date: 12/21/2011

A motion to approve the Variance to Setback was made by Cindy Jones and seconded by Mark Curtis. The Board voted unanimously to approve.

B. Mark C. Weidler, 14745 Smith Ridge Road, Avoca, AR. Request for a Large Scale Development, Project 11-151; JP District 01 (DTW)

<u>Staff Review</u>: The Benton County Planning Board at their regular meeting on December 7th, 2011 reviewed this plan for development of an automotive restoration/repair and Gunsmithing business. The Board took one action and made the following comments regarding the plan:

- 1. Action: The Board granted a waiver to the required 15 parking spaces. Seven (7) parking spaces are now provided for "Weidler Automotive Restoration and Gunsmithing". Space for eight (8) additional parking spaces are depicted on the plan for future parking expansion. The applicant has provided a note, on the plan, that this land is held in reserve and shall not be built upon.
- 2. The Board requested that the plan depict the area that a secondary or backup septic tank and lateral field could be placed. This revised plan depicts a secondary area for a septic tank and lateral fields.
- 3. The Board asked that the area directly in front of the garage doors not be used for parking spaces. The plan now shows that these stalls will be along the northern property line. Staff note: Because the handicapped stall must be constructed on a concrete pad, the applicant has placed this stall in between the two 12' wide garage doors. This situation provides an eight (8) foot wide space for a vehicle to park. The loading bays on either side of the vehicle would provide the "islands" for handicapped individuals to exit from the vehicle. Staff believes that this situation will work.
- 4. Because the exact location of the access and utility easements was unclear, the Board asked the applicant to provide a copy of the deed or covenant that establishes these easements. The applicant has submitted a portion of a recorded plat that depicts a twenty (20) foot access and utility easement along the east property line (Enclosed).
- 5. The Board asked staff if legal notification had been properly followed for this case. The applicant has obtained the signatures of all surrounding property owners (Enclosed). Request for Waiver

The applicant has indicated, on their plan, which they would prefer to screen their automotive and Gunsmithing business only with the existing vegetation that is on this property. The Subdivision Regulations at Chapter X, Section II, 4C, entitled "Buffer Requirements-Landscaping and Vegetation Cover" states; 1. Buffer Requirements. The Planning Board reserves the right to require a buffer to separate or screen one land use from another. To be effective, a buffer should eliminate objectionable sights, sounds, or nuisances from one land use reaching from another.

Section II, B1d, of the same chapter states that; 1. Parking Area Buffers. Commercial, industrial, institutional, public, recreational vehicle, and storage parking areas should be buffered from adjoining residential uses by landscaping, walls, berms, or similar treatments (see Buffer Requirements). Because automotive repair and restoration shops are heavier commercial uses, it is appropriate to screen them from adjoining residential uses. Except for the immediate east side, this property is surrounded by residential uses. Planning staff took a number of photographs during a site visit on November 17th. Existing landscaping along the north and south property lines is sparse. This is truer during the late autumn and winter months. Staff believes that surrounding residential uses would benefit if this project were better buffered (See enclosure). A row of evergreen shrubs along the north and south property lines, each planted ten (10) feet on center would greatly soften the effects of this commercial use. Some permanent buffering would be provided during the late autumn and winter months.

Compliance: Benton County Land Use and Development Guide (Comprehensive Plan)
Criteria 1 of Section II, entitled "Summary of Major Considerations", within Benton County's
Land Use and Development Guide states that it shall be the intent of all planning efforts to;

- 1. Retain the agricultural nature and rural residential character of the county through proper development regulations; while at the same time recognizing the need for industrial land uses, principally where adequate utilities, roads, and other infrastructure exists or will exist. This will allow for future industrial, commercial and rural residential land usage that will minimize incompatibility with agricultural, residential, and other interests.
- 2. Commercial development must be weighed according to its impact on agricultural and residential areas.
- 7. Single family and agricultural land use is granted as a right and all other use applications will be reviewed as conditional uses. Compatibility should be one of the major criteria. Section III A 2, entitled "Commercial", lists the goals and aspirations of Benton County for accommodating commercial development.
- 1. Again, the goal of retaining the rural aspects of the county should remain a priority. Other goals to be met in general commercial land use are: a. To minimize commercial development where inadequate or substandard infrastructure exists. b. To discourage the indiscriminate mixing of commercial development into residential and agricultural areas.

In order to realize these goals, the county should take the following actions: a. Adopt regulations to guide commercial development. b. Encourage planned, integrated commercial areas. c. Adopt codes to insure safe and sanitary development. d. Restrict the location of new general commercial development to certain conditions. e. Assure traffic safety by guaranteeing sufficient off-street parking, f. Off-street loading facilities and well-located ingress and egress points. g. Provide adequate physical screening, and open areas to serve as a buffer between the commercial uses and abutting residential or agricultural areas.

<u>Conclusion and Recommendation --</u> Therefore, staff recommends that the Planning Board decide the applicant's request for a waiver to the buffering requirements of Chapter X, "Commercial and Industrial Large Scale Development", and approve this plan.

Reviewed by: Douglas T. Wyatt, AICP -- Date: 12/21/2011

Mark Curtis made a motion to approve the Large Scale Development contingent on the applicant providing the required buffer (plantings as required in our ordinances) on the South side of the property to screen the business from the neighboring property. Cindy Jones seconded the motion. The motion passed unanimously.

C. Jay Williams, 22041 West Highway 12, Gentry, AR. Plat Modification/Parcel Recombination, 18-13397-000, 18-13384-005, Project 11-155; JP District 12 (RM)

<u>Staff Review:</u> Staff has reviewed the project and recommends approval of the lot recombination. Of the requested variances is based upon the Board's ability to grant variances.

<u>Recommendation:</u> Based upon our technical review, staff recommends the request be granted. Richard McKeehan, Sr Planner: December 2, 2011

Mark Curtis moved to approve, Mr. Knight seconded and the project was approved unanimously.

D. Karen Pitcock, 8030 Cedar Lane, Rogers, AR. Request for a Variance to Setback, Project **11-156**; JP District **01** (RM). The applicant related to Staff they were not ready to ask the Board for a vote on the case and requested additional time to prepare.

Ken Knight made a motion to table this project until the applicant notifies Staff they are prepared to return to address the Board. Mark Curtis seconded the motion. The Board agreed unanimously to table the project.

There were no public comments. This concluded the Public Hearing Meeting

Call to Order (TAC)

4. New Business:

A. Allen Canning Company, 14961 Readings Road, Large Scale Development (addition), Project #: 11-160, Parcel 18-11088-000; JP District 13 (RM)

<u>Staff Notes:</u> Proposed Commercial Building (newly constructed): 6450 s.f. dock / storage area addition Description of Property and Surrounding Area The subject property is an existing industrial plant canning operation located on two parcels as stated above. The parcels total 20.22 acres. The plant has an off-site process water/stormwater treatment plant and retention pond south of the subject parcels. There is existing parking, truck scales and other storage buildings and pump house on the site. Existing county roads surround the site on three sides. They are Readings Road, Water Tower Road and Fire Hydrant Road.

Applicant is seeking to obtain approval for an expansion of the dock / storage building area which will add five more docks in the area, going from five to 10 docks. The applicant is also raising the roof in an existing part of the main building to accommodate better air flow around the work areas, and placement of cooking ovens from a closed plant in Texas.

The parcels are surrounded by lands owned by Allen Canning. The area is open pasture / fields. Some migrant worker housing sets east of the facilities. The existing Clear Creek main flowline moves directly under the existing plant and goes thru the existing facility.

<u>Description and Contents of Plan:</u> The applicant has submitted plans for the building construction plus one Site Plan, sheet C1. The plan shows the existing plant and the hatched area of expansion, grading and existing roads, some fence, pavement and other features. Grades prior to the building construction are shown. Planning staff has reviewed the plans and documents submitted. Listed below are deficiencies identified which must be completed by December 28 in time for staff review prior to the January 4, 2012 Public Hearing.

--Scale: Written and graphical. Must not be less than one (1) inch to one hundred (100) feet. SHOW GRAPHICAL SCALE.

- --Location Map Inset of surrounding area and bounding roads. ADD LOCATION MAP AS AN INSET ON THE SITE PLAN.
- --Lines for notarized signatures of property owners. NO LINES FOR NOTARIZED SIGNATURES PROVIDED. PLEASE ADD.
- --All existing monuments. PROPERTY CORNER AND OVERALL LAYOUT ALONG NORTH PROPERTY LINE NOT SHOWN. REVISE DRAWING, USE LARGER SHEET IF REQUIRED. SHOW EXISTING PROPERTY LINES AROUND PLANT. THEY ARE NOT INDICATED ON SHEET C1.
- --Distance, bearing, and chord measurements along property lines.

 SHOW BEARINGS DISTANCES, ARC DISTANCES ALONG EACH PROPERTY LINE,
- --Building and utility setbacks.
- SHOW ALL BUILDING SETBACK LINES FROM EXISTING ROAD EASEMENTS.
- -- Surveyor's certificate. PROVIDE CERTIFIED PLAN. ENGINEER'S STAMP MAY BE ACCEPTABLE DEPENDING ON THE DATA TO BE CERTIFIED.
- -- Legal Description (written): If not part of an existing subdivision, then this description will be based upon the existing Deed of Record which shall read clockwise and agree With the measurements and bearings indicated on the survey map. PROVIDE LEGAL DESCRIPTION ON THE PLAN TAKEN FROM BLEW & ASSOC SURVEY or FROM DEED DESCRIPTION. ACREAGE IS NOT CORRECT. PARCEL # 18-11088-000 shows 14.61 acres, PARCEL #18-11087-000 shows 5.61 acres. TOTAL = 20.22 AC. PLEASE INDICATE WHICH PARCEL (OR PARCELS) IS TO BE PART OF THIS APPLICATION.

(NOTE: PLANT SETS ON PARCEL #18-11088-000)

- --The 100 year flood elevation if within the 100 year flood plain. Otherwise a note shall be provided verifying that the property is not within the 100 year flood plain. FLOODPLAIN IS SHOWN. PROVIDE FLOODPLAIN STATEMENT REGARDING Parcel 18-11088-000.
- -- Name and location of all existing roads and streets. SHOW NAMES OF ALL ROADS ON PERIMETER ROADS.
- -- Location of all existing easements or rights-of-way. NOT SHOWN.
- --Driveway aisles and parking lots: dimension the width of aisles and parking stalls. Note the composition of parking surfaces. PARKING TOTALS IN EACH PARKING LOT MUST BE SHOWN PER THE TABULAR INFORMATION SHOWN ON SEPARATE SHEET.
- --Handicapped Parking. Stall width should be eight (8) feet wide. This should adjoin a five (5) foot access islands. NOT SHOWN. PROVIDE SIGNAGE AND STRIPING PER ADA STDS.
- --Buffering. Adjoining residential uses should be buffered with either landscaping, walls, berms, or similar treatments. A note shall be provided on the plan that the owner is responsible for the maintenance and replacement of the landscape buffer. PLANT IS EXISTING AND SHOWS NO BUFFER MATERIALS. PROVIDE SMALL AREA AT FRONT OF PLANT FOR LANDSCAPING. (NOTE: ALL ADJACENT OWNERS ARE ALLEN CANNING.)
- --Storm Management plan. Developers should submit a copy of their permit from the appropriate agency ensuring connection to an adequate public wastewater disposal system if reasonably available elsewhere. PROVIDE MORE EXPLANATION OF COMBINED STORM AND WASTEWATER TREATMENT SYSTEM, AND OVERFLOW CAPABILITIES OF RETENTION POND SOUTH OF PLANT.

<u>Recommendations:</u> Complete all plans as stated above and submit 10 sets by December 28. Reviewed by: Richard McKeehan, PE -- Date: 12/21/2011

Chairman Gurel asked the applicants to complete their plans as described in the Staff Report and return to the Public Hearing meeting on January 4th for a vote.

Ms. Karen Gaither—12895 Rosario Road, Garfield, AR 72732. Replat of lot 9, Ray Brown Subdivision. The replat had been approved in 2007 with the stipulation that Ms. Gaither could rename the road leading to her property. She has since dropped this stipulation. The Board agreed to allow her to present her project January 4th, even though the initial approval was over two years ago.

The Board asked Richard McKeehan to meet with 911 Administration to get determination on the correct addresses for the lots in the subdivision before the January 4th meeting. Ms. Gaither was asked to return for a vote on January 4, 2012.

8. Adjournment 8:35p.m.